

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	<b>CASE NO. 4:07CV3283</b>
	)	
<b>Appellant,</b>	)	<b>Bankruptcy No. 06-41813</b>
	)	<b>Chapter 12</b>
<b>v.</b>	)	
	)	
<b>JAMES DANIEL SCHILKE,</b>	)	<b>ORDER</b>
	)	
<b>Appellee.</b>	)	

This matter is before the Court on the Appellee's Unresisted Motion to Allow Filing of Amicus Brief (Filing No. 15). Appellee asks the Court's to allow Professor Jack Williams of Georgia State University College of Law to file an amicus brief in the above-referenced bankruptcy appeal. According to the Appellee, Professor Williams would like an "extension of time" so he may file his amicus brief by July 14, 2008.<sup>1</sup> Appellee also seeks an extension of the deadline for Appellant's reply brief from July 11, 2008, to July 29, 2008, for the purpose of allowing the Appellant to include a response to the Amicus Brief.<sup>2</sup>

On December 28, 2007, the Appellant, United States of America, filed its Notice of Appeal of the Bankruptcy Court's November 27, 2007, Memorandum and Order. (Filing No. 1). The Court granted both parties enlargements of time for briefing (Filing Nos. 8 & 11), and stated in its May 28, 2008, order that no further extensions would be granted (Filing No. 11). On June 24, 2008, Appellee timely filed his own brief in accordance with the Court's extended deadline (Filing No. 14), but contemporaneously asked the Court for

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<sup>1</sup>Counsel for Appellee "received an e-mail from Professor Williams dated June 22, 2008, requesting an extension to July 14, 2008, because his assistant will be out of the country until July 1, 2008, and that Professor Williams will be in Dublin until July 5, 2008." (Filing No. 15, ¶ 11). The request for an extension is perplexing. Professor Williams has not previously moved the Court for leave to file an amicus brief in this matter and no deadline for any such filing has been set by the Court.

<sup>2</sup>According to Appellee, Appellant's counsel represented that Appellant would not oppose the filing of an amicus brief but requested an opportunity to respond to any such brief (Filing No. 15, ¶ 10).

permission for Professor Jack Williams to submit an amicus curiae brief, and for an extension of time for the filing of Appellant's reply brief, so that Appellant might respond to the amicus brief (Filing No. 15). Appellee states that Professor Williams contacted counsel for Appellee on June 3, 2008, "requesting the opportunity to file an Amicus Brief on all issues on the appeal herein." (Filing No. 15, ¶ 8).

Professor Williams himself has not filed any motion for leave to submit an amicus brief.<sup>3</sup> The Court cannot conclude that an amicus brief will bring relevant matters to the attention of the Court that will not be addressed by the parties, or that good cause exists for further delay in the proceedings. Accordingly,

IT IS ORDERED:

1. The Appellee's Motion to Allow Filing of Amicus Brief (Filing No. 15) is denied;
2. Appellant United States may file and serve a reply brief by July 11, 2008; and
3. This case shall be ripe for decision on July 12, 2008.

DATED this 2<sup>nd</sup> day of July, 2008.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge

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<sup>3</sup> The Federal Rules of Appellate Procedure anticipate that amicus curiae will file a motion for leave to submit a brief, accompanied by a copy of the brief; or, if all parties consent to the filing of the brief, then amicus curiae will submit the brief, including a statement to the effect that all parties have consented to its submission. Fed. R. App. P. 29.